A Remonstrance.

OR THE

DECLARATION

Of the Lords and Commons, now Assembled in Parliament, 26 of *May*, 1642.

In answer to a Declaration under his Majesties Name concerning the businesse of *Hull*, sent in a Message to both Houses the 21 of *May*, 1642.

Reprinted by speciall Order from the House of Commons, and the faults amended which escaped in the former Impressions,

Dat. JUNE 4, 1642.

H. Elsyng. Cler. Par. D. Com.

LONDON,
Printed by *A. N.* for *John Franke*, and are to be sold at his shop, next doore to the Kings head in Fleet-street. 1642.

Harvard College Library
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June 30, 1939

The third Remonſtrance.

ALthough the great affaires of this Kingdome and the miſerable and bleeding condition of the Kingdome of *Ireland*, affords us little leiſure to ſpend our time in Declarations, and in Anſwers and Replyes, yet the Malignant party about His Majeſty, taking all occaſions to multiply Calumnies upon the Houſes of Parliament, and to publiſh ſharp invectives under His Majeſties Name againſt them and their proceedings, (a new Engine which they have invented to heighten the deſtructions of this Kingdome, and to beget and increaſe diſtruſt and diſaffection between the King and his Parliament, and the people) We cannot be ſo much wanting to our own Innocencie, or to the duty of our Truſt, as not to cleer our ſelves from thoſe falſe aſperſions, and (which is our chiefeſt care) to diſabuſe the Peoples mindes, and open their

eyes, that under the falſe ſhewes and pretexts of the Law of the Land, and of their owne Rights and Liberties, they may not be carried into the Roade way, that leadeth to the utter ruine and ſubverſion thereof. A late occaſion that theſe wicked ſpirits of diviſion have taken to defame, and indeed to arraigne the proceedings of both Houſes of Parliament, hath beene from our Votes of the 28. of *April*, and our Declaration concerning the buſineſſe of *Hull*, which becauſe we put forth, before wee could ſend our Anſwer concerning that matter unto His Majeſtie, thoſe miſchievous Inſtruments of diſſention, betweene the King, the Parliament and the people, whoſe chiefe labour and ſtudy is to miſrepreſent our Actions to his Majeſtie and to the Kingdome, would needs interpret this as an appeale to the people, and a declining of all Intercourſe betweene his Majeſtie and us, as if we thought it to no purpoſe to endevour any more to give him ſatisfaction, and without expecting any longer our anſwer, under the name of a Meſſage from His Majeſtie to both Houſes, they themſelves have indeed made an Appeale to the people, as the Meſſage it ſelfe doth in a manner

manner grant it to bee, offering to joyne issue with us in that way, and in the nature thereof, doth cleerely shew it selfe to be no other; Therefore we shall likewise addresse our Answer to the Kingdom, not by way of Appeale (as we are charged) but to prevent them from being their own executioners, and from being perswaded under false colours of defending the Law, and their own Liberties to destroy both with their own hands, by taking their lives, Liberties, and Estates out of their hands, whom they have chosen and entrusted therewith, and resigning them up unto some evill counsellors about his Majestie, who can lay no other foundation of their owne greatnesse, but upon the Ruine of this, and in it of all Parliaments, and in them of the true Religion, and the freedome of this Nation. And these are the men that would perswade the people, that both Houses of Parliament containing all the Peeres, and representing all the Commons of *England*, would destroy the Lawes of the Land and liberty of the People, wherein besides the trust of the whole, they themselves in their owne particulars, have so great an interest of honour and estate, That we

hope

hope it will gaine little credit with any, that have the least use of reason, that such as must have so great a share in the misery, should take so much paines in the procuring thereof and spend so much time, and run so many hazards to make themselves slaves, and to destroy the properey of their estates, But that we may give particular satisfaction to the severall imputations cast upon us, we shall take them in Order as they are laid upon us in that Message. First, we are charged for the avowing of that Act of Sir *Iohn Hotham*, which is termed unparalelled, and an high and unheard of Affront unto his Majesty, and as if we needed not to have done it, he being able, as is alleadged, to produce no such command of the Houses of Parliament. Although Sir *Iohn Hotham* had not an Order that did expresse every circumstance of that case, yet he might have produced an Order of both Houses which did comprehend this Case, not onely in the cleere intention, but in the very words thereof, which knowing in our Consciences to be so, and to be most necessary for the safety of the Kingdome, wee could not but in Honour and Iustice avow that Act of his, which we are confident

confident will appear to all the World to be ſo far from being an affront to the King, that it wil be found to have bin an act of great loyalty to His Majeſty, and to his Kingdome.

The next charge upon us is, that inſtead of giving His Majeſty ſatisfaction, we publiſhed a Declaration concerning that buſineſſe, as an appeale to the people, & as if our intercourſe with his Majeſty, and for his ſatisfaction, were now to no more purpoſe, which courſe is alleadged to be very unagreeable to the modeſty and duty of former times, & not warrantable by any Preſidents, but what our ſelves have made. If the Penner of this Meſſage had expected a while, or had not expected, that two Houſes of Parliament, (eſpecially burthened as they are at this time with ſo many preſſing and urgent affaires) ſhould have moved as faſt as himſelf, he would not have ſaid that Declaration was inſtead of an Anſwer to His Majeſty, which we did diſpatch with all the ſpeed and diligence wee could, and have ſent it to His Majeſty by a Committee of both Houſes; whereby it appeares that wee did it not upon that ground, that we thought it was no more to any purpoſe, to endeavour to give

his Majesty satisfaction. And as for the duty and modesty of former times from which wee are said to have varied, and to want the warrant of any presidents therein, but what our selves have made: but if we have made any presidents this Parliament, we have made them for posterity, upon the same or better grounds of reason and Law then those were upon, which our Predecessors first made any for us, and as some presidents ought not to be rules for us to follow; so none can be limits to bound our proceedings, which may and must vary according to the different condition of times, and for this particular of setting forth Declarations for the satisfaction of the people, who have chosen and intrusted us with all that is dearest to them, if there be no example for it, it is because there were never any such Monsters before, that ever attempted to disaffect the people from a Parliament, or could ever harbour a thought that it might be effected; were there ever such practices to poyson the people with an ill apprehension of the Parliament? Were there ever such imputations and scandals laid upon the proceedings of both Houses? Were there ever so many, and so great breaches of priviledge of Parliament?

ment? Were there ever so many and so desperate designes of force and violence against the Parliament, and the Members thereof? If wee have done more then ever our Ancestors have done, wee have suffered more then ever they have suffered, and yet in point of modesty and duty we shall not yield to the best of former times, and wee shall put this in issue, whether the highest and most unwarrantable presidents of any of His Majesties Predecessors, do not fall short and much below what hath bin done unto us this parliament; And on the other side, whether if we should make the highest presidents of other Parliaments our patterns, there would be cause to complain of want of modesty and duty in us, when we have not so much as suffered such things to enter into our thoughts, which all the World knows they have put in Act.

Another Charge which is laid very high upon us (and which were indeed a very great Crime if we were found guilty thereof) is that by avowing this Act of Sir *John Hotham*, we do in consequence confound and destroy the title and intereſt of all his Majesties good subjects to their Lands and goods, and that upon this

ground, That his Majesty hath the same title to his Town of *Hull*, which any of his Subjects have to their houses or lands, and the same to his Magazin and Munition there, that any man hath to his mony, plate, or jewels, and therefore that they ought not to have bin disposed of without or against his consent, no more then the house, land, mony, plate, or jewels, of any subject ought to be without or against his will.

Here that is laid down for a principle, which would indeed pull up the very foundation of the liberty, property, and intereſt of every subject in particular, and of all the subjects in generall, if wee should admit it for a truth that his Majesty hath the same right and title to his Towns and to his Magazin (bought with the publick moneys, as we conceive that at *Hull*, to have been) that every particular man hath to his house, lands, and goods, for his Majesties townes are no more his own, then his Kingdom is his own, and his Kingdom is no more his own then his people are his own, and if the King had a property in all his Towns, what would become of the subjects propriety in their houses therein, and if he had a propriety in his

Kingdom,

Kingdom, what would become of the ſubjects property in their lands throughout the Kingdom, or of their liberties if his Majeſty had the ſame right in their perſons that every ſubject hath in their lands, or goods, and what ſhould become of all the ſubjects intereſt in the towns & Forts of the Kingdom, & in the Kingdom it ſelf, if his Majeſty might ſell or give them away, or diſpoſe of them at his pleaſure as a particular man may do with his lands & with his goods. This erronious maxim, being infuſed into Princes that their Kingdoms are their own, and that they may do with thē what they wil (as if their Kingdoms were for them, & not they for their Kingdoms) is the Root of all the ſubjects miſery, and of the invading of their juſt Rights and Liberties, whereas indeed they are only intruſted with their Kingdoms, & with their towns, and with their people, and with the publick treaſure of the Common-wealth, and whatſoever is bought therewith and by the known law of this Kingdom, the very jewels of the Crown are not the Kings proper goods but are only intruſted to him for the uſe and ornament thereof. As the Towns, Forts, Treaſure, Magazin, Offices and people of the Kingdom, and the whole

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Kingdom it ſelf is intruſted unto him for the good and ſafety and beſt advantage thereof, and as this truſt is for the uſe of the Kingdom, ſo ought it to be managed by the advice of the Houſes of Parliament, whom the Kingdom hath truſted for that purpoſe, it being their duty to ſee it be diſcharged according to the condition and true intent thereof, and as much as in them lyes by all poſſible means to prevent the contrary, which if it hath bin their chief care and only Ayme in the diſpoſing of the Town and Magazin of *Hull*, in ſuch manner as they have done, they hope it will appear clearly to all the World, that they have diſcharged their own truſt, and not invaded that of his Majeſties, much leſſe his property which in this caſe they could not do.

But admitting his Majeſty had indeed had a property in the Town and Magazin of *Hull*, who doubts but that a Parliament may diſpoſe of any thing wherein His Majeſty or any Subjects hath a right, in ſuch a way, as that the kingdom may not be expoſed to hazard or danger thereby, which is our caſe in the diſpoſing of the Town and Magazin of *Hull*: And whereas His Majeſty doth allow this & a greater power

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to a Parliament, but in that sence only as he himself is a part thereof, wee appeal to every mans conscience that hath observed our proceedings whether wee disjoyned his Majesty from His Parliament, who have in all humble ways sought his concurrence with us, as in this particular about *Hull*, and for the removall of the Magazine there, so also in all other things, or whether these evill Counsels about him have not separated him from his Parliament, not onely in distance of place, but also in the discharge of this joynt trust with them for the peace and safety of the Kingdome in this and some other particulars.

Wee have given no occasion to His Majesty to declare his resolution with so much earnestnesse, that he will not suffer either or both Houses by their Votes, without or against his consent to enjoyn any thing that is forbidden by the Law, or to forbid any thing that is enjoyned by the Law. For our Votes have done no such thing, and as wee shall be very tender of the Law, (which wee acknowledge to be the safeguard and custody of all publick and private interesses) so wee shall never allow a few private persons about his Majesty, nor his Ma-

Majesty Himselfe in his owne person, and out of his Courts to be Iudge of the Law, and that contrary to the judgment of the highest Court of judicature: in like manner that His Majesty hath not refused to consent to any thing that might be for the peace and happines of the Kingdom, we cannot admit it in any other sence, but as His Majesty taketh the measure of what will be for the peace and happines of the Kingdom from some few ill affected persons about him contrary to the advice and judgment of His great Councell of Parliament. And because the Advice of both Houses of *PARLIAMENT*, hath through the suggestions of evill Counsellours bin so much under-valued of late, and so absolutely rejected and refused, we hold it fit to declare unto the Kingdom (whose honour and interest is so much concerned in it) what is the priviledge of the great Councell of Parliament herein, and what is the Obligation that lyeth upon the Kings of this Realm to pass such Bils as are offered unto them by both Houses of Parliament, in the name, and for the good of the whole Kingdom whereunto they stand ingaged both in conscience & in justice to give their Royall assent; In conscience, in respect of the

the Oath that is or ought to be taken by the Kings of this Realm at their Coronation, aſwel to confirme by their Royall aſſent ſuch good Lawes as their people ſhall chooſe, and to remedy by Law ſuch inconveniences as the kingdom may ſuffer, as to keep & protect the Laws already in being, as may appear both by the form of the Oath upon record, and in books of good Authority, and by the Statute of the 25 *Edw.* 3. intituled the Statute of Proviſors of Benefices, the form of which Oath, and the clauſe of that Statute concerning it are as followeth.

Forma juramenti ſoliti & conſueti præſtari, per Reges Angliæ in eorum Coronatione. Rot. Parliam. H. 4. N. 17.

Servabis Eccleſiæ Dei, Cleroq; & populo pacem ex integro, & concordiam in Deo ſecundum vires tuas?

Reſpondebit, Servabo.

Facies fieri in omnibus judiciis tuis æquam & rectam juſtitiam & diſcretionem in miſericordia & veritate ſecundum vires tuas?

Reſpondebit, Faciam.

Concedis juſtas leges & conſuetudines eſſe tenendas & promittis per te eas eſſe protegendas & ad honorem Dei corroborandas quas vulgus elegerit ſecundum vires tuas?

Reſpondebit, Concedo & promitto.

Adjicianturque prædictis interrogationibus quæ

justa fuerint; prænunciatisque omnibus confirmet Rex se omnia servaturum sacramento super altare præstito coram cunctis.

A Clause in the Preamble of a Satute made 25 *Edw.* 3. Entituled the Statute of Provisors of Benefices.

Whereupon the said Commons have prayed our said Lord the King, that sith the right of the Crown of *England*, and the Law of the said Realm is such, that upon the mischiefs and damages which happen to his Realm, he ought, and is bound by his Oath, with the accord of his people in his Parliament, thereof to make remedy & Law, and in removing the mischiefs and damages which thereof ensue, that it may please him thereupon to ordain remedy.

Our Lord the King, seeing the mischiefs and damages before mentioned, and having regard to the said Statute made in the time of his said Grand father, and to the causes contained in the same, which Statute holdeth always his Force, and was never defeated, repealed, nor adnulled in any point, and by so much he is bounden by his Oath to cause the same to be kept as the Law of his Realm, though that by sufferance and negligence it hath bin sithence attempted to the

contrary, alſo having regard to the grievous complaints made to him by his people in divers his Parliaments holden heretofore, willing to ordain remedy for the great damages and miſchiefs which have hapned, & daily do happen to the Church of *England*, by the ſaid cauſe.

Here the Lords and Commons claime it directly as the right of the Crowne of *England*, and of the Law of the Land, and that the King is bound by his Oath, with the accord of his people in Parliament to make remedy and Law upon the miſchiefs & damages which happen to this Realm, and the King doth not deny it, although hee take occaſion from a Statute formerly made by his Grand-Father, which was laid as part of the grounds of this Petition, to fix his Anſwer upon another branch of his Oath, and pretermits that which is claimed by the Lords and Commons, which he would not have done if it might have bin excepted againſt.

In juſtice they are obliged thereunto in reſpect of the truſt repoſed in them, which is aſwell to preſerve the Kingdome by the making of new Laws where there ſhall be need, as by the obſerving of Laws already made. A Kingdom being many times as much expoſed to ruin

for the want of a new Law, as by the violation of thoſe that are in being, and this is ſo cleere a right, that no doubt his Majeſty will acknowledge it ſo be as due unto his people as his protection; but how far forth he is obliged to follow the judgment of his Parliament therein, that is the queſtion. And certainly beſides the words in the Kings Oath, referring unto ſuch Laws as the people ſhall chuſe, as in ſuch things which concerne the publike Weal and good of the Kingdom, they are the moſt proper Iudges who are ſent from the whole Kingdom for that very purpoſe, ſo wee do not find that ſince Laws have paſſed by way of Bils (which are read thrice in both Houſes, and committed and every part and circumſtance of them fully weighed and debated upon the commitment, and afterwards paſſed in both Houſes) that ever the Kings of this Realm, did deny them otherwiſe then is expreſſed in that uſuall Anſwer, *Le Roy l'aviſera*, which ſignifies rather a ſuſpenſion then a refuſall of the Royall Aſſent, and in thoſe other Laws which are framed by way of Petitions of Right, the Houſes of Parliament have taken them ſelves to be ſo far Iudges of the rights claimed by them, that when the Kings Anſwer

hath

hath not in every point been fully according to their desire, they have still insisted upon their claim, and never rested satisfied till such time as they had an answer according to their demand, as was done in the late Petition of Right, and in former times upon the like occasion, and if the Parliament be Iudge between the King and his people in the Question of Right (as by the manner of the claim in Petitions of Right, and by judgments in Parliament, in Cases of illegall Impositions and Taxes, and the like it appeareth to be) why should they not be so also in the question of the common good, and necessity of the Kingdom, wherein the Kingdom hath as cleer a right also to have the benefit and remedy of Law, as in any thing whatsoever, and yet we do not deny but in private Bils, and also in publick Acts of Grace, as pardons and the like Grants of Favour, his Majesty may have a greater latitude of granting or denying as he shall think fit.

All this considered, we cannot but wonder that the Contriver of this Message, should conceive the people of this Land to be so void of common sence, as to enter into so deep a mistrust

ſtruſt of thoſe that they have, and his Majeſty ought to repoſe ſo great a truſt in, as to deſpaire of any ſecurity in their private Eſtates by Diſcents, Purchaſes, Aſſurances, or Conveyances, unleſſe his Majeſty ſhould by his Vote prevent the prejudice they might receive therein, by the Votes of both Houſes of parliament; As if they who are eſpecially choſen and intruſted for that purpoſe, and who themſelves muſt needs have ſo great a ſhare in all grievances of the Subject, had wholly caſt off all care of the Subjects good, and his Majeſty had ſolely taken it up; And as if it could be imagined that they ſhould by their Votes overthrow the rights of Diſcents, Purchaſes, or of any Conveyance or Aſſurance, in whoſe judgement the whole Kingdom hath placed all their particular intereſſes, if any of them ſhould be called in queſtion in any of thoſe Caſes, and that (as knowing not where to place them with greater ſecurity) without any Appeale from them to any other perſon or Court whatſoever.

But indeed wee are very much to ſeeke how the caſe of *Hull* ſhould concern Diſcents, and pur-

Purchaſes, or Conveyances, and Aſſurances, unleſſe it be in procuring more ſecurity to men in their private Intereſſes by the preſervation of the whole from confuſion and deſtruction, and much leſſe do wee underſtand how the Sovereign Power was reſiſted and deſpiſed therein; Certainly no command from his Majeſty, and his high Court of parliament (where the Sovereigne power reſides) was diſobeyed by Sir *Iohn Hotham*, nor yet was his Majeſties Authority derived out of any other Court, nor by any legall Commiſſion, or by any other way, wherein the Law hath appointed his Majeſties commands to be derived to his Subjects, and of what validity his verball Commands are, without any ſuch ſtamp of his Authority upon them, and againſt the Order of both Houſes of parliament, and whether the not ſubmitting thereunto be a reſiſting and deſpiſing of the Sovereign Authority, wee leave it to all men to judge, that do at all underſtand the government of this Kingdom.

Wee acknowledge that his Majeſty hath made many expreſſions of his zeal and intentions againſt the deſperate deſignes of papiſts, but yet it is alſo as true, that the Counſells

which

which have prevailed of late with him, have been little ſutable to thoſe expreſſions and intentions: For what doth more advance the open and bloudy deſigne of the papiſts in *Ireland*, (whereon the ſecret plots of the papiſts here do in all likelihood depend) then his Majeſties abſenting himſelf, in that manner that he doth from his parliament, and ſetting forth ſuch ſharp Invectives againſt them, notwithſtanding all the humble petitions, and other means which his parliament hath addreſſed unto him for his return, and for his ſatisfaction concerning their proceedings. And what was more likely to give a riſe to the deſignes of papiſts (whereof there are ſo many in the North, neer to the Town of *Hull*) and of other malignant and ill-affected perſons, which are ready to joyne with them, or to the attempts of Forreigners from abroad, than the continuing of that great Magazin at *Hull* at this time, and and contrary to the deſire and advice of both Houſes of parliament; ſo that wee have too much cauſe to believe that the papiſts have ſtill ſome way and meanes, whereby they have influence upon his Majeſties Counſels for their own advantage.

For

For the malignant party His Majesty needeth not a definition of the Law, nor yet a more full character of them from both Houses of Parliament for to find them out, if he will please onely to apply the Character that himselfe hath made of them to those unto whom it doth properly and truely belong; Who are so much dis-affected to the peace of the Kingdome, as they that endevour to dis-affect His Majesty from the Houses of Parliament, and perswade him to be at such a distance from them both in place and affection? Who are more dis-affected to the government of the Kingdome, than such as lead His Majesty away from hearkning to His Parliament, which by the Constitution of this Kingdome is His greatest and best Councell, and perswade him to follow the malitious Counsels of some private men, in opposing and contradicting the wholsome advices, and just proceedings of that His most faithfull Councel and highest Court? Who are they that not onely neglect and despise, but labour to undermine the Law, under colour of maintaining of it, But they that indevour to destroy the fountain and Conservatory of the Law, which is the Parliament? and

who are they that ſet up other Rules for themſelves to walke by than ſuch as are according to Law, but they that will make other Judges of the Law than the Law hath appointed, and ſo diſpence with their obedience to that which the Law calleth Authority, and to their determinations and reſolutions to whom the judgement doth appertaine by Law. For when private perſons ſhall make the Law to be their Rule, according to their owne underſtandings, contrary to the judgement of theſe that are the competent Judges thereof, they ſet up unto themſelves other Rules than the Law doth acknowledge: who theſe perſons are, none knoweth better than His Majeſty himſelfe: And if he will pleaſe to take all poſſible caution of them, as deſtructive to the Common-wealth and himſelfe, and would remove them from about him, it would be the moſt effectuall meanes to compoſe all the diſtractions, and to cure the diſtempers of this Kingdome.

For the Lord *Digby* his Letter, we did not make mention of it as a ground to hinder His Majeſty from viſiting his own fort; but we appeale to the judgement of any indifferent man

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that shall read that Letter, and compare it with the posture that His Majesty then did, and still doth, stand in towards the Parliament, and with the circumstances of that late action of His Majesty, in going to *Hull*, whether the Advisors of that journey intended onely a visit of that Fort and Magazin. As to the waies and overtures of accommodation, and the Message of the 20. of *January* last, so often pressed, but still in vaine, as is alledged, Our Answer is, that although so often as the Message of the 20. of *January* hath been pressed, so often have our priviledges been cleerly infringed, that a way and method of proceeding should be prescribed unto us, as well for the setling of His Majesties Revenue, as for the presenting of our owne desires (a thing which in former Parliaments hath alwaies been exceipted against as a breach of priviledge) yet in respect to the matter contained in that Message, and out of our earnest desire to beget a good understanding between his Majesty, and us, we swallowed downe all matters of Circumstance, and had ere this time presented the chiefe of our desires to His Majesty, had we not been interrupted with continuall denials even of those

things that were necessary for our present security and subsistance, and had not those denyals been followed with perpetuall invectives against us and our proceedings, and had not those invectives been heaped upon us so thicke one after another, (who were already in a manner wholly taken up with the pressing affaires of this Kingdome, and of the Kingdome of *Ireland*) that as we had little encouragement from thence to hope for any good Answers to our desires, so we had not so much time left us to perfect them in such a manner as to offer them unto His Majesty.

We confesse it is a Resolution most worthy of a Prince, and of His Majesty, to shut his eares against any that would incline him to a civill Warre, and to abhor the very apprehension of it; but we cannot beleeve that mind to have been in them that came with His Majesty to the House of Commons, or in them that accompanied His Majesty to *Hampton* Court, and appeared in a warlike manner at *Kingston* upon *Thames*, or in divers of the that followed His Majesty now lately to *Hull*, or in them that after drew their Swords at *Yorke*, demanding who would be for the King; nor in them that

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advised his Majesty to declare Sir *John Hotham* a traitor before the message was sent concerning that businesse to the Parliament, or to make propositions to the Gentlemen of the County of *York*, to assist His Majesty to proceed against him in a way of force, before he had, or possible could receive an answer from the Parliament, to whom he had sent to demand justice of them against Sir *John Hotham* for that fact; and if those malignant spirits shall ever force us to defend our Religion, the Kingdome, the priviledges of Parliament, and other rights and liberties of the Subjects, with our swords, the blood and destruction that shall ensue thereupon must be wholly cast upon their account, God and our owne Consciences tell us that we are cleere, and we doubt not but God and the whole World will cleare us therein.

For Captaine *Legg*, we did not say that he was accused, or that there was any charge against him for the bringing up of the Army, but that he was imployed in that businesse. And for that question concerning the Earl of *Newcastle* mentioned by His Majesty, which is said to have been asked long since, and that it is not easie to be answered; We conceive that it is a

queſtion of more difficulty and harder to be anſwered, Why, when his Majeſty held it neceſſary, upon the ſame grounds that firſt moved from the Houſes of Parliament, That a Governour ſhould be placed in that Towne, Sir *John Hotham* a Gentleman of knowne fortune and integrity, and a perſon of whom both Houſes of Parliament had expreſſed their confidence, ſhould be refuſed by His Majeſty, and the Earle of *New-Caſtle* (who by the way was ſo far named in the buſineſſe of the bringing up the Army, that although there was not ground enough for a judiciall proceeding; yet there was ground of ſuſpition, at leaſt his reputation was not left ſo unblemiſhed thereby, as that he ſhould be thought the fitteſt man in *England* for that imployment of *Hull*) ſhould be ſent downe in a private way from His Majeſty to take upon him that government, and why he ſhould diſguiſe himſelfe under another name, when he came thither, as he did. But whoſoever ſhall conſider, together with theſe circumſtances, that of the time when Sir *Iohn Hotham* was firſt appointed by both Houſes of Parliament to take upon him that imployment, which was preſently after his Majeſties com-

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ming to the Houſe of Commons, and upon the retiring of himſelfe to *Hampton Court*, and the L. *Digbies* aſſembling of Cavileeres at *Kingſtone* upon *Thames*, will finde reaſon enough why that Town of *Hull* ſhould be committed rather to Sir *Iohn Hotham*, by the authority of both Houſes of Parliament, than to the Earle of *New Caſtle*, ſent from his Majeſty in that manner that he was: And for the power that Sir *John Hotham* hath from the Houſes of Parliament, the better it is knowne and underſtood, we are confident the more it will be approved of and juſtified: And as we do not conceive that his Majeſties refuſall to have that Magazin removed could give any advantage againſt him to have it taken from him, and as no ſuch thing is done, ſo we cannot conceive for what other reaſon any ſhould counſell his Majeſty not to ſuffer it to be removed, upon the deſire of both Houſes of Parliament, except it be that they had an intention to make uſe of it againſt them.

We did not except againſt thoſe that preſented a petition to his Majeſty at *York*, for the continuance of the Magazin at *Hull*, in reſpect of their condition, or in reſpect of their numb-

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ber, becauſe they were meane perſons, or becauſe they were few; but becauſe they being but a few, and there being ſo many more in the County of as good quality as themſelves (who have by their petition to his Majeſty diſavowed that act of theirs) that they ſhould take upon them the ſtile of all the Gentry & Inhabitants of that County, and under that title ſhould preſume to interpoſe their advice contrary to the Votes of both Houſes of Parliament; and if it can be made to appeare that any of theſe Petitions that are ſaid to have been preſented to the Houſes of Parliament, and to have been of a ſtrange nature, were of ſuch a nature as that, we are confident that they were never received with our conſent and approbation.

Whether there was an intention to deprive Sir *John Hotham* of his life, if his Majeſty had been admitted into *Hull*, and whether the information were ſuch, as that he had ground to beleeve it, we will not bring it into queſtion; for that was not, nor ought to have been the ground for doing what he did; neither was the number of his Majeſties Attendants, for being more or fewer, much conſiderable in this caſe: For although it be true, that if his Majeſty had

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entered with twenty Horſe onely, he might haply have found meanes for to have forced the entrance of the reſt of his Traine, who being once in the Towne, would not have beene long without Armes; yet that was not the ground that Sir *John Hotham* was to proceed upon, but upon the admittance of the King into the Towne at all, ſo as to deliver up the Towne and Magazin unto him, and to whomſoever he ſhould give the command thereof, without the knowledge and conſent of both Houſes of Parliament, by whom he was entruſted to the contrary; and his Majeſty having declared that to be his intention concerning the Towne in a Meſſage that he ſent to the Parliament not long before he went to *Hull*, ſaying, That he did not doubt but that Towne ſhould be delivered up to him, whenſoever he pleaſed, as ſuppoſing it to be kept againſt him: and in like manner concerning his Magazin, in his Meſſage of the foure and twentieth of April, wherein it is expreſſed, that his Majeſty went thither with a purpoſe to take into his hands the Magazin, and to diſpoſe of it in ſuch manner as he ſhould think fit; upon theſe termes Sir *John Hotham* could

not have admitted his Majesty, and have made good his trust to the Parliament, though His Majesty would have entered alone, without any Attendants at all of His owne or of the Prince or Duke, his sonnes, which we doe not wish to be lesse than they are in their number, but could heartily wish that they were generally better in their conditions.

In the close of this Message, his Majesty states the case of *Hull*, and thereupon inferreth, that the Act of Sir *Iohn Hotham* was levying of war against the King, and consequently that it was no lesse than high treason, by the Letter of the statute of 25 *Edw.* 3. *cap.* 2. unlesse the sence of that statute be very far differing from the Letter thereof.

In the stating of this Case divers particulars may be observed, wherein it is not rightly stated: As first, That his Majesties going to *Hull* was onely an endevour to visit a Towne and Fort of His; whereas it was indeed to possesse himselfe of the Town and Magazin there, and to dispose of them as he himselfe should think good, without and contrary to the Advices and Orders of both Houses of Parliament, as doth clearely appeare by his Majesties owne

Declaration of his intentions therein, by his Meſſages to both Houſes immediately before & after that journey. Nor can we beleeve that any man that ſhall conſider the circumſtances of that journey to *Hull*, can think that his Majeſty would have gone thither at that time, and in that poſture, that he was pleaſed to put himſelfe in towards the Parliament, if he had intended onely a viſit of the Towne and Magazine. Secondly, it is ſaid to be his Majeſties owne Towne, and his owne Magazine: which being underſtood in that ſenſe as was before expreſſed, as if his Majeſty had a private intereſt of propriety therein, we cannot admit it to be ſo. Thirdly, (which is the maine point of all) Sir *John Hotham* is ſaid to have ſhut the gates againſt his Majeſty, and to have made reſiſtance with armed men in defiance of His Majeſty; whereas it was indeed in obedience to his Majeſty and his authority, and for his ſervice and the ſervice of the Kingdome, for which uſe onely all that intereſt is that the King hath in the Towne; and it is no further his to diſpoſe of, than he uſeth it for that end: And Sir *John Hotham* being commanded to keep the Towne and Ma-

gainst for his Majesty and the Kingdome, and not to deliver them up, but by his Majesties authority signified by both Houses of Parliament, all that is to be understood by those expressions of his denying and opposing his Majesties entrance, and the King him in plain terms he should not come in, was onely this, That he humbly desired his Majesty to forbeare his entrance, till he might acquaint the Parliament, and that his authority might be signified to him by both Houses of Parliament, according to the trust reposed in him. And certainely if the letter of the statute of 25. Ed. 3. cap. 2. be thought to import this, that no warre can be levied against the King, but what is directed and intended against his person, or that every levying of Forces for the defence of the Kings authority, and of his Kingdome, against the personall commands of the King opposed thereunto, though accompanied with his presence, is levying warre against the King, it is very farre from the sense of that statute, and so much that statute it self speaks (besides the authority of Book-cases, Presidents of divers Judges condemned upon that interpretation thereof.) If all the Clause of levying of

warre had been meant onely against the Kings person, what need had there been thereof after the other branch of Treason in the same statute of compassing the Kings death, which would necessarily have implied this? and because the former clause doth imply this, it seems not at all to be intended in this latter branch, but onely the levying of warre against the King, that is against his lawes and authority, and the levying of warre against his lawes and authority, though not against his person, is levying warre against the King, but the levying of force against his personall commands, though accompanied with his presence, and not against his lawes and authority, but in the maintenance thereof, is no levying of warre against the King, but for him. Here is then our case: In a time of so many successive plots and designes of force against the Parliament and Kingdome, in a time of probable invasion from abroad, and that to begin at *Hull*, and to take the opportunity of seizing upon so great a Magazine there, in a time of so great distance and alienation of his Majesties affections from his Parliament, and in them from his Kingdome, which they represent, by the wic-

ked ſuggeſtions of a few maligant perſons, by whoſe miſchievous counſels he is wholly led away from his Parliament, and their faithfull adviſes and counſels; In ſuch a time the Lords and Commons in Parliament command Sir *Iohn Hotham* to draw in ſome of the trained Bands of the parts adjacent to the Towne of *Hull*, for the ſecuring of that Town and Magazine, for the ſervice of His Majeſty and of the Kingdome; of the ſafety whereof there is a higher truſt repoſed in them than any where elſe, and they are the proper judges of the danger thereof.

This Towne and Magazine being entruſted to Sir *Iohn Hotham*, with expreſſe order not to deliver them up, but by the Kings authority ſignified by both Houſes of Parliament; His Majeſty, contrary to the advice and direction of both Houſes of Parliament, without the authority of any Court, or of any legall way wherein the Law appoints the King to ſpeake and command, accompanied with the ſame evill Councell about him that he had before, by a verball command requires Sir *Iohn Hotham* to admit him into the Towne, that he might diſpoſe of it, and of the Magazine there, accor-

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ding to his owne, or rather according to the pleasure of those evill Counsellours, who are still in so much credit about him: in like manner as the Lord *Digby* hath continuall recourse unto, and countenance from the Queens Majesty in *Holland*, by which means he hath opportunity still to communicate his trayterous suggestions and conceptions to both their Majesties, such as those were concerning his Majesties retiring to a place of strength, and declaring himself, and his own advancing of his Majestits service in such a way beyond the seas, and after that resorting to his Majesty in such a place of strength; and divers other things of that nature, contained in his Letter to the Queens Majesty, and to Sir *Lewis Dives*, a person that had not the least part in this late businesse of *Hull*; and was presently dispatcht away into *Holland*, soone after his Majesties returne from *Hull*, for what purpose we leave the world to judge.

Upon the refusall of Sir *John Hotham* to admit his Majesty into *Hull*, presently without any due processe of law, before his Majesty had sent up the narration of his fact to the Parliament, he was proclaimed Traitor; & yet

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it is said, that therein was no violation of the subjects right, nor any breach of the law, nor of the priviledge of Parliament; though Sir *John Hotham* be a member of the House of Commons: and that his Majesty must have better reason than bare Votes to believe the contrary. Although the Votes of the Lords and Commons in Parliament, being the great Councell of the Kingdome, are the reason of the King and of the Kingdome, yet these Votes doe not want cleere and apparent reason for them: For if the solemne proclaiming a man a Traitour signifie any thing, it puts a man, and all those that any way aide, assist, or adhere unto him, into the same condition of Traytours, and drawes upon him all the consequences of Treason; and if this may be done by law, without due proceed of law, the Subject hath a very poore defence of the law, and a very small, if any proportion of liberty thereby: and it is as little satisfaction to a man that shall be exposed to such penalties, by that declaration of him to be a Traitour, to say he shall have a legall tryall afterwards, as it is to condemne a man first and try him afterwards. And if there can be a necessity for any such pro-

proclaiming a man a Traitor without due proceſſe of law, yet there was none in this caſe: For his Majeſty might have as wel expected the judgement of Parliament (which was the right way) as he had leiſure to ſend them to demand Juſtice againſt Sir *John Hotham*. And the breach of priviledge of Parliament is as cleare in this caſe as the ſubverſion of the ſubjects common right: For though the priviledges of Parliament doe not extend to thoſe caſes mentioned in the Declaration, of Treaſon, Felony, and breach of the Peace, ſo as to exempt the Members of Parliament from puniſhment, nor from all manner of Proceſſe and triall, as it doth in other caſes, yet it doth priviledge them in the way and method of their tryall and puniſhment, and that the Parliament ſhould have the cauſe firſt brought before them, that they may judge of the fact, and of the grounds of the accuſation, and how farre forth the manner of their triall may concerne or not concerne the priviledge of Parliament: otherwiſe it would be in the power not only of his Majeſty, but of every private man, under pretenſions of Treaſons, or thoſe other crimes, to take any man from his ſervice in Parliament, and ſo as many,

one after another as he pleaseth, and consequently to make a Parliament what he will, when he will, which would be a breach of so essentiall a priviledge of Parliament, as that the very being thereof depends upon it: and therefore we no waies doubt, but every one that hath taken the Protestation, will according to his solemne vow and oath, defend it with his life and fortunes. Neither doth the sitting of a Parliament suspend all or any Law, in maintaining that Law which upholds the priviledge of Parliament, which upholds the Parliament, which upholds the Kingdome: And we are so far from believing that his Majesty is the only person against whom treason cannot be cõmitted, that in some sense we acknowledge he is the onely Person against whom it can be committed; that is, as he is King, and that treason which is against the Kingdome is more against the King, than that which is against his Person, because he is King: for that very treason is not treason, as it is against him as a man, but as a man that is a king, and as he hath relation to the kingdome, and stands as a person intrusted with the kingdome, and discharging that trust. Now the case is truely stated, and all the world may judge where the

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fault is, although we must avow that there can be no competent Judge of this or any the like case but a *Parliament*, and we are as confident, that his Majesty shall never have cause to resort to any other Court or Course, for the vindication of his just priviledges, and for the recovery and maintenance of his knowne and undoubted Rights, if there should be any invasion or violation thereof, than to his high Court of *Parliament*. And in case those wicked Counsellours about him shall drive him into any other Course from and against his *Parliament*, what ever are his Majesties expressions and intentions, wee shall appeale to all mens consciences, and desire that they would lay their hands upon their hearts, and think With themselves, whether such persons as have of late and still do resort to his Majesty, and have his eare and favour most, either have beene or are more zealous Assertors of the true Protestant profession (although wee believe they are more earnest in the Protestant profession, than in the protestant Religion) or of the law of the Land, the liberty of the Subject, and the priviledges of the *Parliament*, than the Members of both Houses of *Parliament*, who

are insinuated to be the Deserters, if not the destroyers of them: And whether if they could master this *Parliament* by force, they would not hold up the same power to deprive us of all *Parliaments*, which are the ground and Pillar of the Subjects Liberty, and that which onely maketh *England* a free Monarchy.

For the Order of Assistance to the Committees of both Houses, as they have no directions or instructions, but what have the Law for their limits, and the safety of the Land for their ends; so wee doubt not but all persons mentioned in that Order, and all his Majesties good Subjects, will yeeld obedience to his Majesties Authority signified therein by both House of *Parliament*: And that all men may the better know their duty in matters of that nature, and upon how sure a ground they go that follow the judgement of *Parliament* for their guide, we wish them judiciously to consider the true meaning and ground of that Statute made in the eleventh yeere of *Hen.7.cap.* 1. which is printed at large in the end of his Majesties Message of the fourth of *May*. This Statute provides, that none that shall attend upon the King, and doe him true service, shall

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be attainted or forfeit any thing. What was the ſcope of this Statute? To provide that men ſhould not ſuffer as Traytors for ſerving the King in his Warres according to the duty of their Allegeance: If this had been all, it had been a very needleſſe and ridiculous Statute: Was it then intended (as they may ſeeme to take the meaning of it to be, that cauſed it to be printed after his Majeſties Meſſage,) that they ſhould be free from all crime and penalty that ſhould follow the King and ſerve him in War in any caſe whatſoever; whether it were for or againſt the Kingdome, and the Lawes thereof? that cannot be, for that could not ſtand with the duty of their Allegeance, which in the beginning of this Statute is expreſſed to be, to ſerve the King, for the time being; in his Wars, for the defence of Him and the Land; and therefore if it be againſt the Land, (as it cannot be underſtood to be otherwiſe if it be againſt the *Parliament*, the repreſentative body of the Kingdome) It is a declining from the duty of Allegeance, which this Statute ſuppoſeth may be done, though men ſhould follow the *Kings* Perſon in the War: otherwiſe there had beene no need of ſuch a proviſo in the end

of this Statute, that none ſhould take benefit thereby that ſhould decline from their Allegeance. That therefore which is the principle Verbe in this Statute, is *the ſerving of the King for the time being*; which cannot be meant of a *Perkin Warbeck*, or any that ſhould call himſelfe King; but ſuch a one as what ever his Title might prove, either in himſelfe or in his Anceſtors, ſhould be received & acknowledged for ſuch by the kingdom; the conſent whereof cannot be diſcerned but by *Parliament*; the Act whereof is the Act of the whole kingdom by the perſonall ſuffrage of the Peeres, and the delegate conſent of all the Commons of *England*: And *Hen.* 7. a wiſe King, conſidering that what was the caſe of *R.* 3. his Predeceſſor, might by chance of Battell be his owne, and that hee might at once by ſuch a Statute as this, ſatiſfie ſuch as had ſerved his predeceſſor in his Wars; and alſo ſecure thoſe that ſhould ſerve him, who might otherwiſe feare to ſerve him in the Wars, leſt by chance of Battell that might happen to him alſo (if a Duke of *Yorke* had ſet up a Title againſt him) which had happened to his predeceſſor: he procured this Statute to be made, that no man ſhould be accounted a

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Traytor for ſerving the *King* in his Warres for the time being; that is, which was for the preſent allowed and received by the Parliament in behalfe of the kingdome; and as it is truely ſuggeſted in the preamble of the Statute. It is not agreeable to reaſon or conſcience that it ſhould be otherwiſe, ſeeing men ſhould be put upon an impoſſibility of knowing their duty, if the judgement of the higheſt Court ſhould not be a rule and guide to them: and if the judgement thereof ſhould be followed, where the queſtion is who is *King*, much more, what is the beſt ſervice of the *King* and kingdome, and therefore thoſe that ſhall guide themſelves by the judgement of Parliament, ought, what ever happen, to be ſecure and free from all account and penalties, upon the grounds and equity of this very Statute.

We ſhall conclude, that although thoſe wicked Councellors about His Majeſty, have preſumed under his Majeſties Name to put that diſhonour and affront upon both Houſes of Parliament, as to make them the countenancers of Treaſon; enough to have diſſolved all the bands and ſinews of confidence betweene His Majeſty and His Parliament, (of whom the

the Maxime of the Lawes, That a dishonourable thing ought not to be imagined of them; yet we doubt not but it shall in the end appeare to all the World, that our endeavours have beene most hearty and sincere, for the maintenance of the true Protestant Religion, the Kings just prerogatives, the Lawes and Liberties of the Land, and the Priviledges of Parliament; in which endevours by the grace of God we will still persist, though we should perish in the worke; which if it should be, it is much to be feared, That Religion, Lawes, Liberties and Parliaments, would not be long lived after us.

Die Sabbati, 4. Junii, 1642.

Sir Walter Erle, Sir Peter Wentworth, Sir Samuel Rolle, Mr. Arthur Goodwyn, Mr. Pury, Mr. Noble.

THis Committee, or any three of them, are appointed to consider of the best way of putting the publique Orders and Votes of the House in execution, and of divulging, dispersing, and publishing the said Orders and Votes, and also the Declarations of the House, through the Kingdom, and of the well and true printing of them. And have power to imploy Messengers, as they shall see occasion, and to make them allowances, and to set them on worke when they please.

Hen. Elsinge, Cler. Parl. D. Com.

FINIS.